

Office of Air Quality

Report to the Air Pollution Control Board on Air Permitting Programs

as required by 326 IAC 2-7-19, 326 IAC 2-1.1-8 and IC 13-17-13-3



December 3, 2003

for permit activity during the State Fiscal Year 2003 (FY03):

July 1, 2002 - June 30, 2003

Report to the Air Pollution Control Board on
Air Permitting Programs

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Introduction to consolidated Air Board Report on permitting

The Indiana Department of Environmental Management's permitting programs are crucial to the successful implementation of Indiana's pollution control laws. Those affected by these programs - the regulated community, the general public, state and local officials, and the staff at the Indiana Department of Environmental Management (IDEM) - are intensely interested in how these programs are implemented. The IDEM has been very active in providing information on the department's progress in improving the implementation of the various permit programs. In addition to supplying information requested by various groups - most notably the Environmental Quality Service Council - the Office of Air Quality (OAQ) reports annually to the Air Pollution Control Board as required by state law.

Three provisions in the state law B 326 IAC 2-7-19 regarding the permit programs that implement Title V of the federal Clean Air Act; 326 IAC 2-1.1-8 on permit decisions subject to timeliness deadlines; and IC 13-17-13-3 regarding the streamlined Enforceable Operating Agreements B require the OAQ to report on various aspects of our air permit program. Originally, the required information was presented in one report with three sections, with a separate section for Title V, NSR and Enforceable Operating Agreements. Beginning with the report for 1999, the reports have been integrated into one report that contains all the information required by the three different provisions of state law. In addition, the report also contains additional information that is not required by the underlying legal provisions, but is relevant to the implementation of the programs. **This report covers the State Fiscal Year 2003, which began July 1, 2002 and ended June 30, 2003.**

The public and interested parties can obtain more information regarding OAQ's construction and operating permit programs via the IDEM website: www.IN.gov/idem/air/permits. Information on this site includes:

- \$ the monthly EQSC permit report
- \$ a link to IDEM's online permit guide
- \$ AAir Permits Online@which offers an opportunity to view and download draft and final permit documents, and check on the status of permit applications

Background and Overview

Historically, the Air Permits Branch was responsible for implementing Indiana's **ANew Source Review Program**® (also called **ANConstruction Permits**®), which permitted new sources and modifications to existing sources. This program had several levels of approvals, based on emissions.

In 1996, the Branch began implementing the Operating Permit programs that resulted from Title V of the 1990 Clean Air Act Amendments, known as the **ATitle V Operating Permit Program**.® The U.S. EPA granted interim approval for Indiana's Title V operating permit program on December 14, 1995, and OAQ obtained full EPA approval of the program December 4, 2001. This new program has enabled the Agency to draft a compliance tool (the Title V permit) for the permittee, the Agency, and the public that serves as a single reference for all air pollution related requirements applicable to the permitted source. As a result, the OAQ has been reviewing, standardizing, and updating air operating permits for all significant point sources of air pollution in our state. Compliance rates will increase and emissions to the air will decrease as a result of the permits' focus on monitoring environmentally significant operations.

Since 1990, the OAQ has worked with interested parties to develop relevant legislation, rules, applications, and model permits that will be used to implement Indiana's air operating permit programs. Approximately 1700 sources were affected by these programs in 1990. As new sources have been built, and others have closed, that number has grown to more than 1900. More than 700 of these sources, predominantly major source sources of air pollution, will obtain the permits specifically described by Title V of the Clean Air Act. Sources that would otherwise be required to obtain these Title V permits are covered by permit programs that are specially designed for smaller sources. These programs - Federally Enforceable State Operating Permits (FESOP), Source Specific Operating Agreements, (SSOA) and Permits by Rule - establish limits on a source's potential to emit air pollution to below Title V applicability thresholds. These programs achieve the most practical benefits of the full Title V program with streamlined procedures and lower fees. Title V requires that the direct and indirect cost of these programs be supported by permit fees established by the states.

The OAQ has worked closely with the U.S. EPA and other interested parties to develop model permit language to focus this review of individual applications on source-specific issues. During the public review periods for initial draft Title V Permits, the OAQ works with interested parties to further ensure that permits satisfy the requirements of the rules in a practical manner.

At the end of FY03, the OAQ had issued 644 of the 801 Title V applications received prior to July 1, 2002. Approximately 80 of the sources with issued Title V permits subsequently closed or have received a lower level of permit.

The **Federally Enforceable State Operation Permit (FESOP)** allows sources to limit their air emissions below the Title V threshold levels. A FESOP is somewhat less complex than a Title V permit and can provide more operational flexibility. Conditions in a FESOP are enforceable by U.S.EPA as well as by IDEM. The OAQ has issued 517 FESOPs as of June 30, 2003.

The **Source Specific Operating Agreement Program (SSOA)** addresses specific types of sources that, if unlimited, would have a potential to emit (PTE) at thresholds greater than the major source thresholds for any criteria or hazardous air pollutants. However, the nature of the sources makes it possible to establish realistic operating conditions to limit the PTE considerably below the major source thresholds. These conditions are specifically established by rule significantly streamlining the application, review, and approval process. The OAQ has issued 703 SSOAs as of June 30, 2003.

Sources receiving a SSOA under 326 IAC 2-9 are exempt from the major operating permit program and are not required to submit a Title V or Federally Enforceable State Operating Permit (FESOP) application.

The **Permit by Rule** program exempts certain very small sources from the requirement to obtain an operating approval due to the minimal amount of emissions generated by the source. These sources include all sources that have actual emissions less than 20% of the major source thresholds (without the use of emission controls) as established in 326 IAC 8-2-10, and include gasoline dispensing and grain elevator operations, as specified in 326 IAC 2-11. By rule, these operations are not required to submit an application, notify the OAQ or get an approval. Consequently, the numbers or types of sources cannot be quantified.

On December 25, 1998, rules became effective that essentially created a unitary permit system, in which only brand new sources will receive a **Construction** permit. All other types of modifications to existing sources receive an Amendment, Modification, or Revision to their existing Operating Permit. To most effectively implement federal requirements for sources that have a Title V permit, the OAQ issues separate permits for construction and operation. Implementing the 1998 rules has created several new types of permit approvals, and some new names for previously issued types of approvals. A **Permit Accountability** requirement that approvals be issued within statutorily prescribed timeframes, still applies to agency permit actions in essentially the same manner as before.

Permit Activity Summary

The OAQ Permits Programs achieved several key accomplishments in FY03:

- \$ The OAQ issued 39 first-time Title V Operating Permits during FY03, raising the total number issued to 644.
- \$ In the New Source Review Program, OAQ has maintained 100% on time issuance for significant permit actions subject to accountability deadlines for more than five years. No late permits have been issued since June 1998.
- \$ U.S. EPA approved the rule to implement the Prevention of Significant Deterioration program under state law rather than acting as U.S. EPA's delegate.
- \$ The OAQ continued to more fully develop activities related to public involvement and environmental justice issues.

The charts on the following pages show more detailed information on permit activity on:

Operating Permit Programs

First time Title V Operating Permits

Minor Operating Permits

Significant Modifications to Title V Operating Permits

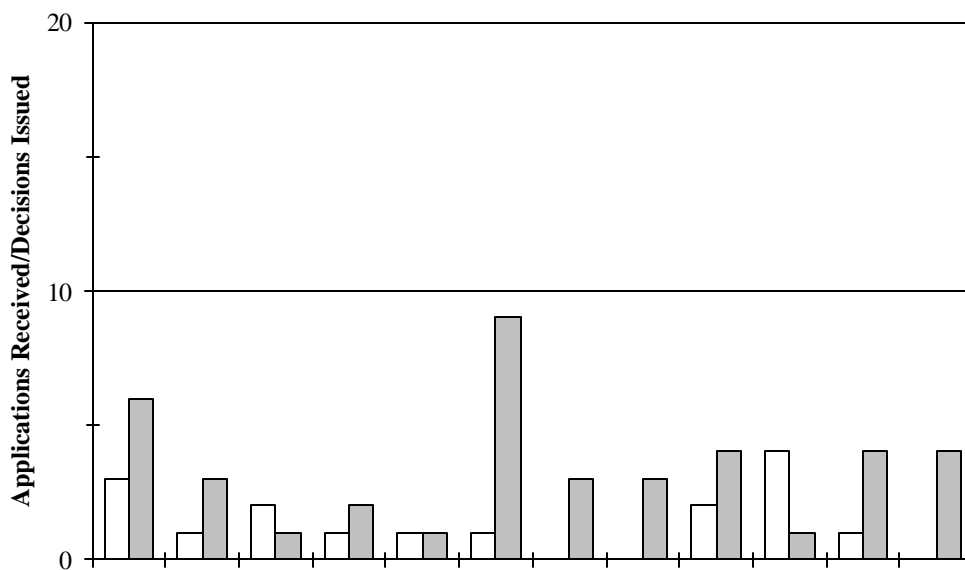
New Source Review Program

New Construction/Source Modifications

Federal Air Construction Permits

First Time Title V Operating Permits

This chart represents first time Title V Operating permits only. The chart does not include those Title V applications received as part of a combined construction permit/operating permit approval, such as Title V/Enhanced New Source Review, which are instead tracked as construction permits. The chart includes ALL permit decisions, including applications which were combined, withdrawn, or cancelled.

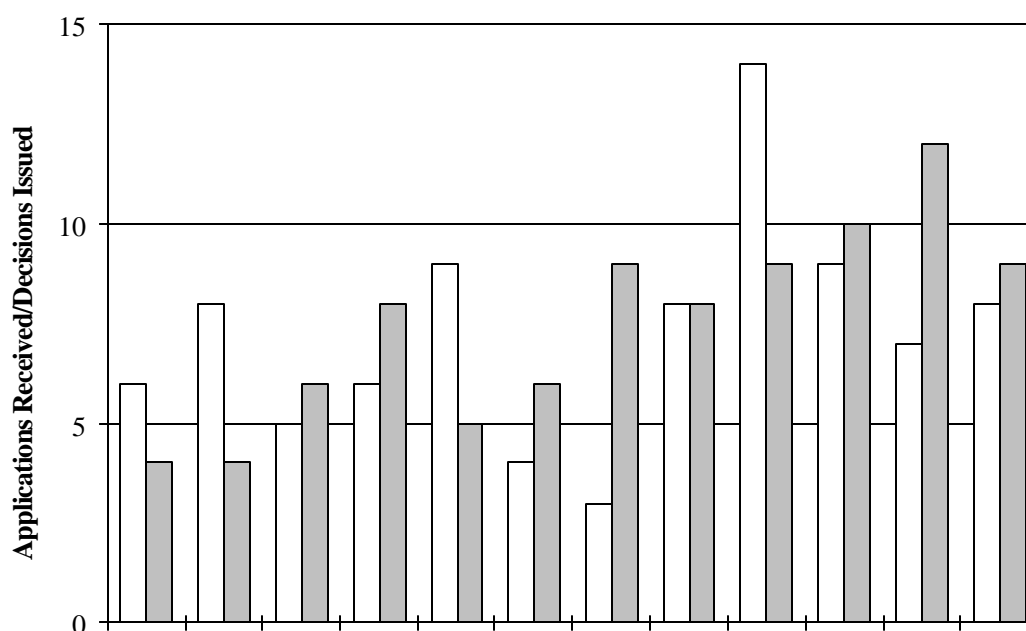


Applications	Jul '02	Aug	Sept	Oct	Nov	Dec	Jan '03	Feb	Mar	Apr	May	Jun	Total
Received	3	1	2	1	3	1	0	0	2	2	1	0	16
Final Decisions	6	3	1	2	4	9	3	3	4	9	4	4	52
Pending (not shown)	193	191	192	191	191	183	180	177	175	178	175	171	

Note: The 1990 Amendments to the Clean Air Act required that the IDEM Office of Air Quality (OAQ) act by December 31, 2000, on all applications for Title V Air Operating Permits received before June 30, 1999. The OAQ has issued the majority of permit decisions required by the deadline, and decisions on the remaining applications are scheduled to be issued in 2003-2004. The chart also includes applications received after June 30, 1999. Applications received after that date must be reviewed, and a permit decision issued within 18 months. To date, fifty-eight (58) such reviews have been completed and permits issued, with no late permits.

Minor Operating Permits

This chart shows Minor Source Operating Permits (MSOP), the Source Specific Operating Agreements (SSOAs), and Federally Enforceable State Operation Permits (FESOPs). The 1998 rules required existing minor sources without a valid permit to apply for an approval by December 27, 1999. Existing minor sources with operating permits were required to apply by December 26, 2000. The chart does not include those FESOP and MSOP applications received as part of a combined construction permit/operating permit approval, such as FESOP/Enhanced New Source Review, which are instead tracked as construction permits (see page 8). Decisions include permits issued as well as applications withdrawn, combined or denied.

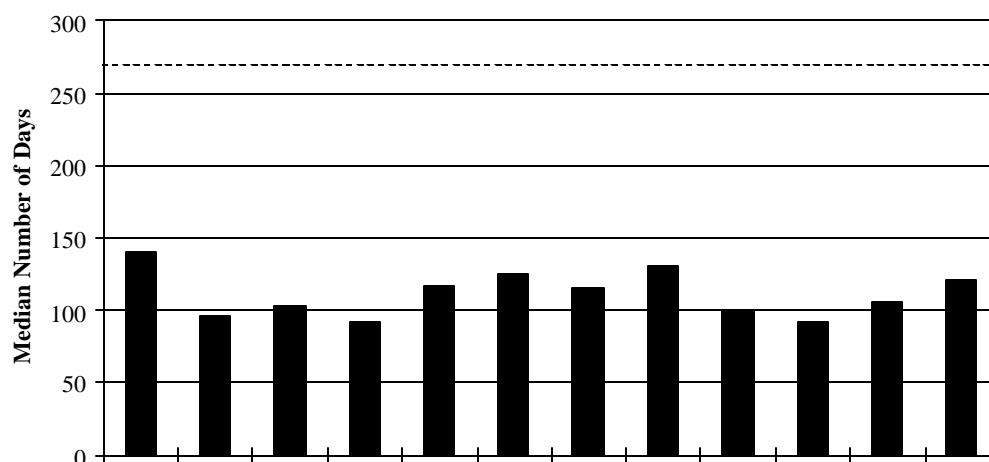


Applications:		Jul '02	Aug	Sept	Oct	Nov	Dec	Jan '03	Feb	Mar	Apr	May	Jun	Total
Received		6	8	5	6	9	4	3	8	14	9	7	8	87
Final Decisions		4	4	6	8	5	6	9	8	9	10	12	9	90
Pending (not shown)		110	114	113	111	115	113	107	107	112	111	106	105	

Of the 90 minor source permit decisions made in FY03, 29 were Source Specific Operating Agreements (SSOAs) and one was a General FESOP for an asphalt plant.

Significant Modifications to Title V Operating Permits: 270 day deadline

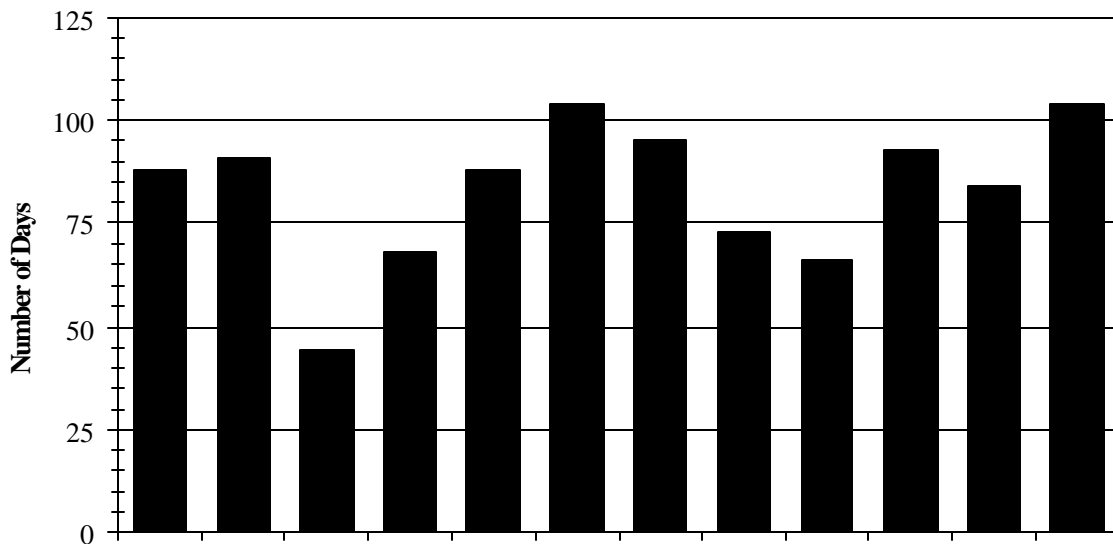
This chart shows approvals for modifications to existing Title V permits, or applications pending for Title V permits. These approvals include both changes that involve only a modification to the operating permit and changes necessary to incorporate preconstruction approvals (shown on page 8) into the operating permit.



Applications	Jul >02	Aug	Sept	Oct	Nov	Dec	Jan >03	Feb	Mar	Apr	May	Jun	Total
Median # of Days to Issue	141	95	103	92	116	125	115	130	100	92	106	122	
#Late Permit Modifications	0	0	0	0	0	0	0	0	0	0	0	0	0
Actual # Modifications Issued	4	4	1	7	8	6	9	2	11	9	7	2	70
Total Applications Received	7	5	10	8	7	12	7	7	6	7	2	5	83
Total Decisions	4	13	1	8	9	6	9	2	12	10	8	2	84
Total Applications Pending	45	37	46	46	44	50	48	53	47	44	38	41	

New Construction/Source Modifications

The first table reports the number of permits **subject to the 120 day deadline** which were approved, and the median number of days it took to issue those permits, which also is depicted in the bar graph.



	Jul 02	Aug	Sep	Oct	Nov	Dec	Jan 03	Feb	Mar	Apr	May	Jun	Total
Median # of days to issue	88	91	44	68	88	104	95	73	66	93	84	104	
# of Permits past deadline	0	0	0	0	0	0	0	0	0	0	0	0	0
# of permits approvals issued	5	10	3	8	6	9	8	3	15	11	6	11	95

The second table represents the total number of applications received, decisions issued, and applications pending for all levels of construction approvals, including: New Construction Permits, Interim Construction Permits, Exemptions, Registrations, applications for combined construction/operating permits (such as FESOP/NSR (Federally Enforceable State Operating Permit/New Source Review), as well as requests for modifications to existing sources, including modifications to Title V sources. Modifications to Title V permits are shown on page 7.

	Jul 02	Aug	Sep	Oct	Nov	Dec	Jan 03	Feb	Mar	Apr	May	Jun	Total
Total applications received	20	13	19	12	21	20	15	18	18	20	15	13	204
Total final decisions	13	17	9	15	17	18	18	9	21	27	17	15	196
Total applications pending	109	105	115	112	116	118	115	124	121	114	112	110	

Major New Source Review: 270 Day Review

The OAQ issued the following permits submit to Federal Major Source Review rules (270 day deadline for non-CWOP/OWOP) in FY03. All permits subject to permit accountability were issued within the allowable time.

Applicant	County	Date
Tenaska Partners	Pike	11/12/02
Iron Dynamics	DeKalb	12/18/02
PSEG Lawrenceburg Energy	Dearborn	12/23/02
MasterBrand Cabinets	Dubois	2/3/03
Duke Energy	Vermilion	3/13/03
Cooper Standard Automotive	DeKalb	4/8/03
Mirant Sugar Creek	Vigo	4/23/03
University of Notre Dame	St. Joseph	4/30/03
Whiting Clean Energy	Lake	5/2/03
Beta Steel	Porter	5/30/03
Toyota Manufacturing	Gibson	6/27/03

The following information regarding permit activity is not shown on the preceding charts but is required by rule to be included in this report:

Permit Application Increase/reduction

During FY03 the OAQ received a total of 1593 permit applications; (164 of the 1593 were reviewed by the Local Air Pollution Control Agencies.) During FY02 the OAQ received a total of 1536 permit applications; (184 of the 1536 were reviewed by the Local Air Pollution Control Agencies) This represents an increase in workload of approximately 4%.

Public Hearings

The Office of Air Quality conducted seven public hearings during FY03; during this same period last year the OAQ conducted six public hearings.

Appeals and Objections

In the New Source Review Program, three petitions for review were raised during FY03. The Office of Legal Counsel (OLC), representing IDEM, expended two hundred attorney work hours on those cases in FY03. In the Title V Program, 12 petitions for review of first time Title V permits and 31 requests for review of approvals for modifications to existing sources and/or existing source operating permits were filed. OLC attorneys worked approximately 2,500 hours on these cases and preexisting cases. Permits Branch staff worked approximately 3,000 hours assisting OLC attorneys with the litigation and settlement of permit cases. Thirteen air permit appeal cases were settled, dismissed or withdrawn in FY03.

Notices of Deficiency/Requests for Additional Information

During FY03, the OAQ issued 108 Administrative Notices of Deficiency (for information such as missing or incomplete forms) and 366 Technical Notices of Deficiency.

During the previous fiscal year, the OAQ issued 81 Administrative Notices of Deficiency and 421 Technical Notices of Deficiency.

Financial Information

Air Program Permit Fee Collections and Revenues Expenditures

IDEM expended \$6,618,664 in salary and benefits in FY03. This includes salary and benefits paid to Air Permit Branch staff and to staff supporting the Title V Program, such as our Compliance Branch, Office of Enforcement, and Office of Legal Counsel. In addition, \$1,679,840 was spent on permit review contract assistance during FY03. Title V Operating Permit Program expenditures totaled \$14,536,597 in FY03. These expenditures include a \$1,879,881 transfer from the Trust Fund's Investment Account to the Trust Fund's investment's account to the Trust Fund's closing account. This transfer is also shown as revenue on the Auditor's Fund Balance Report, so the expenses and revenues associated with these transfers cancel each other out and the actual cash balance of the fund remained unchanged. The OAQ collected \$10,833,975 in fees and \$33,177 in interest during FY03.

No permit fees were refunded under 326 2-1.18(m) and (n) in FY03 because there were no late permit decisions.

Future Operating Costs

Future operating costs of the permit program during FY04 are expected to be somewhat higher than the past year, due to:

- < Title V Operating Permit Workload results in an anticipated increase in contractor payments for Title V and New Source Review. In FY 03, the OAQ spent approximately 47% of the \$3,600,000 permit review contract; the OAQ has a contract for \$3,600,000 in place for FY04 and anticipates expending a higher portion of that contract for permit review as we complete the initial Title V permits and continue to handle an increasing number of routine review applications;
- < Increasing number of Title V permit modifications;
- < New NESHAPs resulting in more development of model permit language;
- < The OAQ has approval for \$50,000 to fund overtime for permit review staff to ensure we meet our Title V and NSR permit goals; and
- < Increased workload due to review of Title V renewal applications which began to arrive during FY 03.

The 1998 rules were intended to reduce the level of approval required for many types of source modification. Because the fees associated with a given level of approval are closely associated to the average cost, the overall new source review fees are expected to continue to track OAQ costs.

Description of any monies deposited into the Title V Operating Trust Fund that were obtained by means other than the fees paid under Title V

Only fees collected from Title V, FESOP, and SSOA sources have been deposited into the Title V Operating Permit Trust Fund. No other monies have been deposited

Review of Fee Schedule

The Commissioner may adjust the fee schedule using the revision of the Consumer Price Index (CPI) which is most consistent with the CPI for calendar year 1995. The Commissioner may also adjust the fee schedule in the event that revenues do not total \$13,700,000. Revenues in FY03 did not total this amount. At this time, IDEM has not recommended an adjustment to the existing fee schedule. Any such request will be presented to the Air Pollution Control Board as required.

Adjustments to Fee Schedule

IDEM is required to review the balance of the trust fund as of July 1 and determine, once obligated funds are subtracted, whether the balance of the fund exceeds \$3,000,000. If that amount is exceeded, IDEM must adjust the fee payment schedule for the next billing cycle to return any excess trust fund monies. The IDEM Controller has conducted this review, furnished below, and has determined that the unobligated fund balance in the Title V fund was less than \$3,000,000 as of July 1, 2003.

Indiana Department of Environmental Management Analysis of Title V cash balance and available funds

Cash Balance per Auditor of State 6/30/2003	\$12,790,853
Less Outstanding Obligations*	<u>(\$1,979,526)</u>
Sub-total	\$10,811,327
Less Fiscal Year 2004 charges for Agency Wide Services	(\$2,578,170)
Less 3/4 of Fiscal Year 2004 Budget	<u>(\$6,847,720)</u>
Unobligated Fund Balance	<u>\$1,385,437</u>

*The obligations were reduced by \$3,203,119 in contractual expenses that are expected in FY2004.

The Auditor's cash balance report is provided on the next page.

Adequacy of Fees collected

IDEM believes that the current fee schedule is adequate to fund the Title V permit program. While expenditures exceed fee revenue by \$3,702,622, IDEM's analysis shows that the minimum unobligated fund balance during FY03 will be no less than \$1,385,427. Therefore, IDEM does not recommend any adjustments to the rule's fee schedule at this time.

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
TITLE V: 2760
FUND ANALYSIS REPORT
AS OF JUNE 30, 2003

CASH BALANCE, 7/1/02		\$14,580,213	
REVENUE:			
FEES	\$10,833,975		
TRANSFER	\$1,879,881		
INTEREST	\$33,177		
MISCELLANEOUS	<u>\$204</u>		
REVENUE		<u>\$12,747,237</u>	
TOTAL REVENUE			\$27,327,450
EXPENSES:			
PERSONAL SERVICES		(\$6,618,664)	
OTHER SERVICES		(\$90,203)	
CONTRACTUAL SERVICES		(\$2,475,236)	
SUPPLIES		(\$43,577)	
EQUIPMENT		(\$126,403)	
SW Cap		(\$241,513)	
AWS SUPPORT		(\$2,683,265)	
GRANTS		(\$2,200,804)	
IN-STATE TRAVEL		(\$49,383)	
OUT-OF-STATE TRAVEL		<u>(\$7,549)</u>	
TOTAL EXPENSES		<u>(\$14,536,597)</u>	
AUDITOR'S FUND BALANCE			\$12,790,853
OUTSTANDING OBLIGATIONS:			
CONTRACTUAL SERVICES		(\$4,920,444)	
SUPPLIES			(\$281)
EQUIPMENT		(\$19,946)	
GRANTS		<u>(\$241,974)</u>	
TOTAL OUTSTANDING OBLIGATIONS:		<u>(\$5,182,645)</u>	
AVAILABLE CASH BALANCE			<u>\$7,608,208</u>

Air Permits Program Improvements and Accomplishments during FY03

Full EPA Approval of PSD Program

- < On March 3, 2003, U.S. EPA published conditional approval of the PSD program as a revision to the Indiana State Implementation Plan (SIP). The PSD SIP approval became effective on April 2, 2003. Indiana's PSD program is now a federally-approved program instead of a delegated program.

Continued focus on staff training, including:

- < Three permits staff and two compliance attended a recently revised APTI Combustion Source Evaluation course in Chicago. This opportunity provided a great source of information about combustion sources and related air pollution issues. As the first set of students for the revised course, we provided several comments to APTI for improving the course.
- < Two permits staff participated in APTI's course on the Principles and Practice of Air Pollution Control in Chicago. This opportunity provided an overview of air pollution issues.
- < Eight permits staff participated in EPA's Compliance Assurance and Title V Monitoring class. The course provided staff with the tools to write effective compliance monitoring permit conditions.
- < Four permits staff participated in EPA's Voluntary Superior Monitoring class. The course provided staff with an opportunity to evaluate example compliance monitoring situations and compare the analyses with the thoughts of peers across the nation.
- < John Thompson of the Clean Air Task Force gave a one hour presentation on coal gasification, promoting it as a cleaner way to use coal to fuel power plants. Seven permits staff attended the presentation.
- < Many staff also participated in a wide variety of video and Internet based training offered by the U.S. EPA and Air Pollution Training Institute (APTI).

Continued Refinement of Model Permits

- < The Permits Branch has continued to refine our model permits to add new language to better fit specific cases, and to add standardized sections for different types of facilities.

Title V renewals:

- < First-time Title V Operating Permits began to expire in FY03. The OAQ has developed a streamlined application and renewal process. We have received 201 applications for Title V renewals and have issued nine.

Increased Public Participation activities:

- < IDEM has developed written materials written in Aplain English® which are easier for the public to understand, such as: a notice with Final permit decisions that explains how to appeal; Public notices; and handouts at all public hearings which describe the facility and the permit review process.
- < The OAQ conducted successful workshops for citizens in Lafayette, Gary, and Portage. The workshops were designed to give citizens an overview of the Air Program as a whole, and included participation from each major Air Program area.
- < Preliminary findings for the integrated steel mills, which are extremely complex, are being put on public notice for 60 days instead of 30 to give the public more time to review these documents. Permits staff take extra steps to ensure that the permit applications and draft permits for complex Title V permits are widely available to the public.

Priorities for the Air Permits Program for the next 12 months

1. Construction permits for new and modified sources: Render all permit decisions for new sources and modifications of existing sources as timely as possible and always within permit accountability time frames without compromising public input.
2. Issue Title V Permits: All but 3% of the Title V permit applications received prior to June 30, 2002 will be approved for Public Notice by December 31, 2003. All Title V permits will be issued by June 30, 2004.
3. Issue all FESOP and Title V renewals.
4. Review the December 31, 2002 and subsequent changes to the federal new source review rules, confer with interested parties, and make recommendations to the Air Pollution Control Board regarding Indiana's new source review rules.
5. Continue efforts to enhance the public's ability to effectively participate in the OAQ permit review process, and develop strategies to address to Environmental Justice issues.
6. Continue to provide regulatory and technical training to staff.